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Adam Day,
a/g Executive Director, Default Market Offer and Consumers,
Australian Energy Regulator
GPO Box 3131, Canberra ACT 2601,

5 January 2026

Dear Mr. Day,

The ACT Council of Social Service (ACTCOSS) is the peak body for not-for-profit community organisations in the Australian Capital Territory (ACT). Our membership includes social housing providers, financial counselling services and other organisations working to reduce poverty and disadvantage in the ACT.

As an organisation working to tackle the structural drivers of poverty and inequality, ACTCOSS welcomes the opportunity to provide feedback on the question of improving payment assistance information. We have also taken this opportunity to offer our views on how the on AER's *'Customer Hardship Policy Guideline'*,[1] may be further strengthened to better assist customers experiencing energy payment difficulties.

Our feedback is informed by regular engagement with ACT energy businesses, insights from our member organisations that support people experiencing energy hardship, and the current socio-economic context in the ACT.

ACT socio economic context

Despite higher-than-average incomes relative to the national level, a growing number of ACT residents are experiencing cost-of-living pressures. This is reflected in the growing number and diversity of households seeking support services from community organisations. These services are no longer just supporting those on the lowest incomes; they are increasingly a lifeline for working families and individuals who find themselves on the edge of financial insecurity.

Cost of living pressures are also reflected in data from the *Living Well in the ACT Region* survey conducted between November and December 2024 by the University of Canberra.[2] According to the survey results, 86% of Canberrans reported household expenses were rising faster than income, and over a third of households experienced at least one financial stress event in the 12 months prior to the survey. Common coping strategies included purchasing cheaper food (68.5%), reducing the use of heating and cooling (51%), and delaying medical appointments (37.9%). A significant proportion of households also reported bill payment difficulties (11%), and going without meals or adequate heating and cooling (5.9%).

[1] Australian Energy Regulator, *Customer Hardship Policy Guideline* (Guideline, 2019)

[2] Jacki Schirmer, Suzanne Carroll and Michael Dale, *Living Well in the ACT Region: Understanding the Changing Wellbeing of Canberrans*, 2019–2024 (Report, 2025)

The survey also provides insight into the financial resilience of Canberra households by examining how they would cope with an unexpected expense of $2,000.[3] 81.7% of respondents reported they could cover the cost using savings, while 7.7% said they would not be able to raise $2,000 at all. Others indicated they would rely on short-term credit facilities (16.8%), borrow from friends or family (12.1%), pawn or sell belongings (6.5%), redraw on their mortgage or delay paying other bills (9.6%), or seek assistance from charities (1.9%).[4] Retailer hardship programs were not identified in the survey results as a source for cost-of-living assistance.

Feedback on AER's customer hardship policy guidelines

With regards to guidelines issued by the AER to strengthen protections for customers experiencing hardship, ACTCOSS:

(a) Supports the continued use of standard language in hardship policies.

The language used in hardship policies is critical to ensuring access to the full scope of protections retailers are obliged to offer customers experiencing payment difficulty, because it directly affects whether consumers can understand, access, and trust the support available to them.

Standard language developed by the AER for use in hardship policies is subject to extensive consultation requirements, and scrutiny by multiple parties including consumer advocates. The replacement of standard language with retailer specific language would increase the regulatory burden associated with the approval of retailer hardship policies, while denying consumers the benefit of language that has been rigorously scrutinised and refined.

Uniform language also supports the work of community organisations and financial counselling services by enabling staff to provide consistent advice, quickly identify available supports, and assist consumers to compare options across retailers without having to interpret different terminology or policy structures. This reduces friction in accessing assistance and improves referral pathways.

Finally, prescribed language limits retailers' ability to frame hardship support in ways that downplay eligibility, introduce informal barriers, or discourage uptake through overly narrow or discouraging descriptions of available assistance.

(b) ACTCOSS recommends strengthening measures aimed at improving the accessibility of retailer hardship policy documents and website supports for culturally and linguistically diverse people

On September 2025, ACTCOSS published a preliminary analysis of the degree to which the needs of energy consumers who are culturally and linguistically diverse are considered in public facing communications by energy

[3] Ibid, 36.
[4] Ibid

retailers.[5] To conduct this analysis ACTCOSS examined the websites of 15 different energy retailers in the ACT and hardship policy documents published on their websites.

The review of retailer hardship policies surfaced several issues which had the potential to negatively impact culturally and linguistically diverse people's access to hardship supports. Identified issues include: website navigation challenges restricting access to hardship policies; poor visibility and placement of language services; challenges accessing information about third-party delegation; lack of clarity on culturally and linguistically diverse community engagement and support pathways; and limited access to energy efficiency and assistance resources.

The report which contains additional information on these issues, barriers to energy equity for culturally and linguistically diverse people and recommendations on how these barriers has been included as an attachment to this submission.

(c) Recommends the introduction of objective engagement triggers for retail hardship assistance

ACTCOSS recommends the introduction of a non-exhaustive list of clearly defined, objective engagement triggers, that prompt retailers to provide hardship assistance information to customers. Recommended objective triggers include:

(i) customers missing two or more payments and
(ii) customers accruing debt exceeding a minimum debt threshold prescribed by the AER.

A non-exhaustive trigger list reflects the reality that hardship does not manifest in a single, uniform way, and provides operational flexibility for retailers by preserving their discretion to identify and respond to other risk factors. It also places the onus on retailers to initiate contact where objective indicators point to a heightened likelihood that a household is experiencing payment difficulty. This onus is appropriate given low levels of awareness among the average consumer of retailer obligations to assist customers experiencing payment difficulty.

Early engagement triggers reduce the risk of customers being denied the full benefit of consumer protections, including protections designed to prevent the accrual of avoidable or excessive energy debt. [6] The eligibility for, and operation of, a number of these protections is contingent on a customer being identified and designated a hardship customer. Each day that a customer is not identified and supported as a hardship customer is a day in which they miss out on protections intended to prevent their financial situation from deteriorating further.

The need for enforceable retailer engagement triggers is underscored by persistently high levels of debt at the point of entry into retailer hardship programs. Despite the introduction of the *'Customer Hardship Policy Guideline'* in 2019, average arrears for ACT electricity customers entering hardship assistance remains substantial. During 2024–25, almost 70% of ACT electricity customers who accessed retailer hardship programs had debts exceeding the minimum

[5] *ACT Council of Social Service (ACTCOSS), Energy Experiences of Culturally and Linguistically Diverse People in the ACT (Report, September 2025).* < https://actcoss.org.au/wp-content/uploads/2025/09/Report-on-the-energy-experiences-of-culturally-and-linguistically-diverse-people-in-the-ACT.pdf>

[6] This includes National Energy Retail Rules rr 75C, 75D, scheduled to come in to force December 2026.

disconnection threshold of $500, while 37.6% of ACT electricity customers enrolled in retailer hardship programs had entry debts exceeding $1,500.[7] These figures suggest that many customers are being identified after debts have already escalated to levels that are difficult to manage.

The establishment of objective triggers for the provision of retailer assistance and information on retailer hardship programs has the potential to reduce average debt levels upon entry into retailer hardship programs. It would provide a clear and auditable basis for regulatory oversight and compliance action where retailers fail to engage customers in a timely manner.

(d) Recommends clarifying the appropriate degree of prescription required in the retail hardship guidelines on an issue specific basis.

ACTCOSS cautions against proceeding on the basis that greater retailer discretion in interpreting hardship obligations and reduced regulatory prescription fleshing out the content of a retailer's duty to provide assistance, will generally lead to better consumer outcomes.

Instead, ACTCOSS recommends the AER make determinations as to whether consumers would benefit from greater clarification of the different aspects of retailers' obligations to assist customers experiencing payment difficulty, on a targeted and issue-specific basis. Failure to do so may undermine the effectiveness of consumer protections against energy insecurity.

Retailer hardship guidelines perform a dual and interrelated function: they provide greater certainty to retailers about the content of their obligation to assist customers, while also enabling retailer accountability. Where requirements are clearly prescribed, it is easier to assess whether a retailer has met its obligations. By contrast, where obligations are loosely defined or left to retailer discretion, it becomes difficult to determine whether a retailer has failed to meet its duty to assist, weakening the accountability function of the retail hardship framework.

(e) ACTCOSS recommends establishing safeguards against 'tick-box' compliance culture

ACTCOSS acknowledges that increased prescription carries with it the risk of encouraging a "tick-box" compliance culture, in which retailers focus on meeting minimum procedural requirements, rather than delivering meaningful assistance to customers experiencing energy hardship.

However, the risks associated with greater prescription must be weighed against the demonstrated shortcomings of the existing retail hardship guidelines which takes a process focused, light touch approach to regulatory prescription. The limited use of regulatory enforcement action, even in the context of persistently high debt levels at entry into hardship programs, low rates of successful program completion, and widespread concern among consumer advocates about the inadequacy of assistance being provided further highlights the need for clearer expectations, stronger retailer accountability, and more substantive standards of protection.

[7] Independent Competition and Regulatory Commission (ACT), ACT Retail Electricity Market Monitoring 2025 (Report No 8 of 2025, December 2025).

ACTCOSS does not regard the existence of prescriptive requirements as precluding outcomes-based regulatory requirements. ACTCOSS recommends ameliorating the risk of prescriptive requirements devolving into a superficial compliance exercise by treating compliance with established minimum standards for retailer assistance as *only prima facie* evidence of assistance. A presumption that may be rebutted, if a holistic analysis of the facts before the regulator supports, on balance, a conclusion that the retailer has failed to comply with its obligation to assist customers experiencing energy hardship. This approach would allow minimum standards to establish a clear baseline facilitating greater clarity and accountability without displacing the substantive obligation to provide genuine and effective hardship assistance.

(f) Recommends the AER consider the impact on consumer and regulator ability to surface issues and take enforcement action when retail guidelines are opaque.

Customers require clear, authoritative statements setting out minimum expectations, or plain language that provides a reliable reference point for assessing whether the assistance offered by a retailer was adequate. Without them, customers who have experienced conduct they view as “unfair” or “unhelpful” may not identify retailer failure to provide payment difficulty assistance. Lacking the vocabulary required to describe their experience in a way that correlates with an enforceable retailer obligation to provide assistance, these customers may be discouraged from seeking redress or lodging complaints. Similarly, where retailer obligations are framed in high-level or discretionary terms, customers may be discouraged from lodging complaints due to an inability to distinguish between what a retailer is required to do and what may be offered at the retailer’s discretion.

In circumstances where fewer complaints are raised or progressed, regulators may have less visibility of emerging issues, including patterns of inadequate assistance or practices that may warrant closer attention. This can limit the effectiveness of existing oversight and feedback mechanisms, particularly where concerns arise from cumulative practices rather than isolated incidents.

(g) Recommends the AER give due consideration to underlying structural factors driving retailer behaviour when determining the appropriate balance between prescription and discretion in retail hardship guidelines

The context in which most Australian energy retailers operate (a competitive market economy, in which corporate governance structures and fiduciary duties drive retail staff and office holders to maximise shareholder value) creates strong natural incentives to maximise profits and contain costs.

In this context, retailers have an inherent commercial incentive to minimise hardship program enrolments and assistance. This is because, customers in hardship programs are more likely to be placed on extended payment plans, receive concessions, and receive protections from commercial practices that increase retailer revenue, all of which can reduce revenue and increase administration costs for retailers.

To effectively counterbalance these incentives, enforceable obligations, with financial or reputational consequences for their breach are necessary. Diluting prescription in this context risks weakening these countervailing incentives and undermining the effectiveness of the retail hardship guidelines as a consumer protection mechanism.

(h) Recommends the AER take into consideration the impact of loosely defined retail obligations on consumer advocacy efforts.

Reduced prescription and uncertainty about the minimum scope and content of hardship obligations significantly weakens the ability of financial counsellors and community advocates to act on behalf of consumers. Many customers experiencing hardship rely on third parties to negotiate with retailers. Where obligations are loosely defined or embedded in unpublished or highly discretionary retailer policies, outcomes can depend on goodwill, internal practices, or the capability of individual staff members, rather than on enforceable rights, or a clear authoritative statement that provide advocates with a reliable basis for engagement and escalation if necessary.

This uncertainty can also have a chilling effect on complaints regarding retailer hardship practices, as community organisations must weigh the potential benefit of raising an issue against the risk of damaging working relationships with retailers on which their clients may depend.

Sincerely,

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